

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6146

BILL NUMBER: SB 172

NOTE PREPARED: Dec 10, 2008

BILL AMENDED:

SUBJECT: Electronic Recording of Custodial Interrogations.

FIRST AUTHOR: Sen. Tallian

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It requires state and local law enforcement agencies to electronically record custodial interrogations of suspects during felony investigations conducted after June 30, 2010.
- B. It requires the agencies to retain copies of custodial interrogations for certain periods.
- C. It provides that any statements made by a suspect that are in violation of the custodial interrogation requirements are inadmissible in a felony prosecution against the suspect.
- D. It provides for certain exceptions.

Effective Date: July 1, 2009.

Explanation of State Expenditures: The bill is estimated to result in costs of approximately \$217,500 to the Indiana State Police (ISP). In this bill, a "custodial interrogation" occurs when a law enforcement officer questions a person about a felony and the person considers himself or herself to be in custody.

While eight state agencies have law enforcement officers with arrest powers, the ISP will conduct almost all felony investigations. ISP does not have a policy requiring all felony custodial interviews must recorded. Each trooper would need to be equipped with a digital recorder. To implement this, ISP would need to buy 1,450 digital recorders at an estimated cost of \$150 each. The estimated costs would be approximately \$217,500 (\$150 x 1,450).

The following table shows the number of felony investigations performed and the number of arrests made by the State Police between 2005 and 2007.

State Police Activity			
	2005	2006	2007
Arrests	20,726	21,236	24,674
Investigations	157,102	139,456	140,665
Source: 2007 Indiana State Police Annual Report			

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary:* Depending on current practices, this bill could result in minimal to moderate costs to local law enforcement agencies.

LSA sent a mail survey to all 92 sheriffs about whether they currently record custodial interrogations for only murder cases, all felony cases, or none with audio video equipment. Out of 92 counties, 42 responded, representing 36% of all of Indiana's counties. Of the responding sheriffs, 41 counties recorded custodial interrogations in murder cases and 30 counties recorded custodial interrogations in all felony cases. While LSA did not conduct a similar survey of municipal police departments, electronic recording of interrogations is reportedly standard operating procedure for municipal police departments in larger urban areas in Indiana.

As an observation, LSA found that of the sheriffs responding, 11 were from counties with less than 25,000 total population, presumably counties with a relatively low tax base. Of these 11 counties, 7 reported recording the custodial interrogations of all felony cases electronically. Consequently, these agencies should already be able to comply with this legislation.

Local law enforcement agencies which do not currently use electronic recording equipment in custodial interrogations could incur the following expenses:

- Acquisition of necessary equipment (video cameras are relatively inexpensive, ranging from \$150 to \$1,500).
- Restructuring interview facilities to allow for one-way mirrors in interrogation rooms.
- Training personnel in equipment use and interrogation techniques.
- Adding or reassigning employees who operate the equipment and transcribe the tapes.
- Providing for appropriate storage of tapes and discs.
- Incurring the time and expense of personnel in observing or listening to playbacks, in preparing excerpts of recordings for courtroom use, and in making copies for defense lawyers, courts, and juries.

As a minimum, potential cost savings and related benefits could include:

- Reduction in time of officers preparing reports from handwritten notes with the risk of important omissions.
- Saving time and costs of lengthy contested pretrial and trial hearings about what occurred during custodial interrogations, since recordings make extensive testimony unnecessary.
- Reduction in post-conviction claims of false confessions and wrongful convictions, in investigations into charges of police misconduct, and in civil litigation with the risk of large damage awards.

(Source: *Police Experiences with Recording Custodial Interrogations*)

Municipal police departments in smaller cities and towns may have a more difficult time complying. However, these smaller departments may have access to the equipment at the headquarters of another department. There were 451 municipal police departments in Indiana in 2007.

Background Information: As a minimum estimate of persons who might be questioned about a felony in a given year, the estimated number of offenses that were estimated by the Federal Bureau of Investigation are shown in the following table. There could be more persons who were held in custody and questioned about a felony than there were persons who were arrested for a felony.

Offenses Estimated in Indiana in 2007								
Murder and Nonnegligent Manslaughter	Forcible Rape	Robbery	Aggravated Assault	Property Crime	Burglary	Larceny-theft	Motor Vehicle Theft	Totals
356	1,742	7,872	11,195	215,526	46,919	149,050	19,557	452,217
Source: <i>Crime in the United States</i> , Federal Bureau of Investigation, 2007.								

Explanation of Local Revenues:

State Agencies Affected: Indiana State Police.

Local Agencies Affected: Local law enforcement agencies.

Information Sources: Doug Gosser, Indiana Sheriffs' Association; Uniform Crime Reports, Federal Bureau of Investigation; Indiana State Police *Annual Reports* 2004 through 2007; Captain Todd Smith, Indiana State Police; *Crime in the United States*, Federal Bureau of Investigation, 1999 through 2007

Fiscal Analyst: Mark Goodpaster, 317-232-9852.